

**City of Hollister**

**Personnel System**

**Rules and Regulations**

Revised August 8, 1994

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## **Section 1 - Introduction and General Provisions**

### **1.01 Statement of Purpose**

- A. In order to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service the best and most competent persons available; to assure that appointments and promotions of employees will be based on job-related merit and fitness; and to provide a reasonable degree of security for qualified employees, this personnel system is hereby adopted.
- B. The policies and procedures contained in this manual supersede any and all previously issued City policies, procedures, rules or instructions related to matters discussed herein.
- C. Circumstances will obviously require that policies, procedures and benefits described in this manual change from time to time. Consequently, the City reserves the right to amend, supplement or rescind any provisions of this manual as it deems appropriate in its sole and absolute discretion, subject to any requirements applicable under the City's Employer/Employee Labor Relations Resolution and Government Code ' 3500 et seq. Employees will be advised of changes in policies, benefits and procedures.
- D. Nothing in this manual shall be deemed to supersede applicable state or federal law or administrative regulations related to personnel matters. Whenever the masculine or feminine form of any word is used in this manual, it also includes the other gender unless the context clearly indicates a contrary intent.

### **1.02 Authority**

The City Council of the City of Hollister has approved the provisions of this Personnel System. The Council must approve all additions, amendments and revisions to the personnel policies and procedures contained in this manual.

### **1.03 Administration**

- A. The City Manager is responsible for implementing, administering and ensuring compliance with the provisions of this manual. In the event any provision of this manual needs clarification, the City Manager may issue administrative instructions clarifying the intent of said provision as adopted by the City Council. The City Manager may develop and issue procedures, consistent with this manual, to facilitate the manual's implementation.
- B. If there is any conflict between this manual and any department policies and procedures, the policies and procedures contained in this manual take precedence. If there is any conflict between this manual and any Memorandum of Understanding between the City and a Recognized Employee Organization, the provisions contained in the Memorandum of Understanding shall take precedence.

**1.04 Delegation of Responsibility**

This manual authorizes and assigns certain duties and responsibilities to the City Manager and the Personnel Officer. The City Manager serves as the Personnel Officer. The City Manager may, at his/her discretion, delegate the responsibilities assigned in this manual as he/she may deem appropriate and necessary.

**1.05 Exempt Personnel**

Except where specifically exempted, the provisions of this resolution shall apply to all offices, positions and employees in the service of the city, except:

- A. Elective officers.
- B. City Manger.
- C. Members of appointive boards, commissions and committees.
- D. Persons employed by independent organizations under contract to supply expert, professional, technical or any other services.
- E. Volunteer personnel.
- F. City Attorney.
- G. Emergency employees who are hired to meet the immediate requirements of any emergency conditions, such as extra-ordinary fire, flood, or earthquake which threatens life or property.

## **Section 2 - Employment Policies and Working Conditions**

### **2.01 Equal Employment Opportunity**

- A. It shall be the policy of the City to provide an equal employment opportunity for all applicants and employees. The City does not unlawfully discriminate on the basis of race, color, religion, sex, national origin, ancestry, age, medical condition, disability, veteran status, or marital status. The City makes reasonable accommodations for handicapped and disabled veteran applicants/employees, and the City prohibits harassment of any individual on any of the bases listed above.
- B. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, and social/recreational programs.
- C. It shall also be the policy of the City to comply with all provisions of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, the California Fair Employment Practice Act as amended in 1974 and any other federal and state statutory provisions that apply. Additionally, all due consideration shall be given to the guidelines set forth by the Fair Employment Practice Commission of the State of California and the Office of Federal Contract Compliance.
- D. No provisions of this policy shall be construed to preclude any Affirmative Action Plan or amendment thereof which may be adopted by the City.
- E. Any incident of discrimination or harassment, including work-related harassment by City employees or any other person, should be reported to the employee's Department Head or to the Personnel Officer, who will investigate the matter.

### **2.02 Americans with Disabilities**

- A. It is the policy of the City to comply with all the relevant and applicable provisions of the Americans with Disabilities Act (ADA). The City will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. The City also will make reasonable accommodations wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the essential job duties and provided that any accommodations made do not require significant difficulty or expense.
- B. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, and social/recreational programs.
- C. Any employee or job applicant who believes that he or she has been discriminated against on the basis of disability should immediately bring the problem to the attention of their Department Head or the Personnel Officer.

2.1

### **2.03 Affirmative Action Plan**

- A. Affirmative action is not a matter of passive non-discrimination or neutral merit hiring policy. It is an intended result-oriented program aimed at the identification, recruitment, employment, and training of minorities, disabled persons, and women. It is intended to be a positive action that will equalize employment opportunities and fully utilize the greater pool of human resources and skills that exist among minorities, the disabled, and women. In adopting such a program, the City recognizes the potential of all individuals who wish to participate in or seek entrance to the work force.
- B. In undertaking affirmative action, the City will not practice reverse discrimination by giving undue preferential treatment to minorities, the physically disabled, or women by using quotas or other unequal opportunity devices. Rather, the Affirmative Action Program has been developed to reinforce and enhance merit employment concepts by insuring that all segments of the community have an opportunity to enter employment on the basis of open competition, and to advance according to their relative ability and fitness.
- C. The City has developed, and maintains, a comprehensive Affirmative Action Plan covering all elements of personnel policy and practice to remove discriminatory employment barriers when and where they are found to exist, and to enable all individuals to compete for employment opportunities on an equal basis, regardless of race, color, religion, sex, national origin, ancestry, age, medical condition, handicap, veteran status, or marital status or any other status protected by law, unless there exists a bona fide occupational qualification.

## 2.04 Harassment Policy

### A. Statement of Intent

- 1. Harassment of an applicant or employee by a supervisor, management employee or any other employee of the City on the basis of race, color, religion, sex, national origin, ancestry, age, medical condition, disability, veteran status, or marital status will not be tolerated.
- 2. Disciplinary action up to and including termination may be instituted for behavior falling within the following definitions of harassment.

### B. Definitions

Harassment includes, but is not limited to:

- 1. **Verbal Harassment** - Includes epithets, derogatory comments or slurs on the basis of race, color, religion, sex, national origin, ancestry, age, medical condition, handicap, veteran status, or marital status. Verbal harassment also includes verbal sexual advances, repeated offensive sexual flirtations or propositions, and requests for sexual favors. Additionally, continued or repeated verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexual degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations, also constitute verbal harassment.
- 2. **Physical Harassment** - Includes conduct such as unwanted touching, offensive or abusive conduct, assault, impeding or blocking movement, physical interference with normal work or movement, and other similar misconduct.



3. **Visual Forms of Harassment** - Includes derogatory posters, notices, bulletins, cartoons or drawing on the basis of race, religious creed, national origin, ancestry, handicap, medical condition, marital status, sex or age. Leering, making sexual gestures, and displaying sexual suggestive objects or pictures also constitutes harassment.

The types of actions defined above, although illustrative and not all-inclusive, constitute harassment when:

- a. Submission to the conduct is an explicit or implicit term or condition of an individual's employment.
- b. The submission to or rejection of the conduct by an individual is the basis for any employment decision affecting the individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

#### C. **Complaint Procedure**

1. **Initiating Complaint.** An employee who has been harassed on the job should immediately inform his/her Department Head (or the City Manager if a Department Head is accused of the harassment). The employee shall immediately submit a written statement with the Department Head (or the City Manager as the case may be) containing the following:
  - a. The nature of the harassment charge (i.e., verbal, physical and/or visual).
  - b. The name(s) of the employee(s) accused of engaging in harassment.
  - c. The specific date(s) of harassment along with a description of the events surrounding the alleged harassment. The names of any witness(es).
  - d. Such a complaint must be filed within thirty (30) days of the latest incident of harassment by the employee making the complaint.
2. **Department Head.** Upon receipt of a timely complaint, the Department Head shall immediately conduct an investigation and if the complaint is substantiated initiate appropriate corrective action. In conducting the investigation, the Department Head shall interview the employee(s) making the complaint, the accused and any witnesses. The Department Head shall also review written documentation and records relating to the specific incident(s) and, where appropriate, interview or take statements from supervisors. If the Department Head's investigation concludes that harassment has occurred, the City will take appropriate disciplinary action against the harasser. The complaining party will be advised of the final disciplinary action or other remedy fashioned for the situation.

2.3

#### D. **Confidentiality**

The letter of complaint, investigatory process, and the disposition of the complaint shall be

confidential.

## 2.05 Drug-Free Workplace

- A. **Application.** This Policy applies to all employees of the City of Hollister, and to all applicants for positions with the City of Hollister. This Policy applies to all controlled substances, alcohol or medications, legal or illegal, which would impair an employee's ability to perform his/her assigned duties in a safe, efficient and/or effective manner.
- B. **Purpose.** The City is concerned that its employees are in a condition to perform their duties safely and efficiently, so as to pose no risk of harm to themselves, to their fellow workers or to the public. The City is further concerned that the abuse of controlled substances and alcohol (collectively referred to in this Resolution as "drugs") and the use of prescription and over-the-counter medications (collectively referred to in this Resolution as "medications") by employees increases the potential for accidents, absenteeism, substandard performance, poor employee morale and damage to the City's reputation.
- C. It is the City's policy that employees shall not:
1. Be under the influence of or in possession of drugs, nor manufacture drugs, while on City property, at work locations, while on duty or subject to being called to duty, while using City vehicles or equipment, or while using privately owned vehicles or equipment on City business;
  2. Possess or utilize drugs while subject to agency duty;
  3. Sell, provide or dispense drugs to any person while such employee is on duty or subject to being called to duty; and
  4. Report to duty as a City employee with ability to discharge the usual responsibilities of the position impaired by reason of the use of drugs or medications.

Use of medications is not a per se violation of this Policy. However, it is the responsibility of the employee to notify his/her supervisor, prior to beginning work for the particular shift, whether (a) the employee will be taking medications during such work shift and (b) whether the employee believes that medications taken during or before the work shift may interfere with, or may produce side-effects which would interfere with the employee's performance of his/her duties in a safe, efficient and/or effective manner. In the event of a question concerning the employee's ability to perform assigned duties in a safe, efficient and/or effective manner by virtue of the use of medications, prior clearance from a qualified physician may be required.

In the event that an employee's ability to perform assigned work safely, efficiently and/or effectively is impaired, the employee shall be prevented from engaging in such work and should, where reasonably possible, be assisted and encouraged to obtain and utilize safe transportation from the work site.

2.4

Consistent with the Public Safety Officers' Procedural Bill of Rights Act and other comparable legislation, the City reserves the right to search (without employee consent) all areas and property over which the City maintains exclusive control, to secure (without employee consent) all areas and

property over which the City maintains joint control with others (including joint control with the employee), and to notify the appropriate law enforcement agency that it reasonably believes an employee to have drugs in his/her possession, or in an area controlled by the City or by others, or to be under the influence of drugs, or to have sold, given or otherwise dispensed or disposed of controlled substances to another.

The City is committed to providing reasonable accommodation to any employee whose particular problem with a drug or medication may result from or arise out of a handicap under Federal or State law, or cause such employee to be classified as handicapped under such law.

- D. Failure to abide by the provisions of this policy shall be grounds for disciplinary action, up to and including termination.

## 2.06 **Outside Employment**

- A. It is City policy that employees who work for the City on a full-time basis shall be discouraged from engaging in additional employment with another employer or from engaging in self-employment. Employees may not engage in outside employment which is incompatible with, inconsistent with, or in conflict (as defined in section B.) with their City employment or the duties, functions, or responsibilities of the City.
- B. Outside employment will be considered as incompatible with, inconsistent with, or in conflict with City employment if:
1. The employment conflicts with the employee's work schedules, duties and responsibilities.
  2. The employment creates an actual or potential conflict of interest or incompatibility with City employment.
  3. The employment has a detrimental effect upon the employee's work performance with the City.
  4. The employment involves conducting business during the employee's hours of employment with the City or while the employee is on an emergency call or on stand-by.
  5. The employee use City premises, facilities, vehicles, equipment or supplies in his/her outside employment.
- C. Self-employment is considered outside employment and is subject to the same limitations as other outside employment, with the added restriction that the employment may not involve ownership of a private business that is incompatible (as defined in section B.) with the employee's position with the City.

2.5

- D. An application for approval of outside employment must be submitted by the employee to the Department Head for review. If the Department Head approves the request, it shall be forwarded to the City Manager for review and final approval.

## 2.07 **Conflicts of Interest**

- A. Employees of the City are prohibited from:
  - 1. Engaging in or having any interest in any business or transaction, or incurring any obligation which conflicts with or impairs, or appears to conflict with or impair their independent judgment in the discharge of their official duties.
  - 2. Accepting any gift or compensation (money, favors or other considerations) for work they would be required or expected to perform in the regular course of their duties.
  - 3. Accepting any substantial gift, gratuity or consideration of any kind from any non-governmental person or entity performing or seeking to perform any work or service on behalf of the City, where such person or entity can be expected to do business with the City within the employee's area of responsibility. An employee may accept occasional, non-cash gifts of an incidental nature, such as, for example, a working lunch or a seasonal gift offered to an entire work group.
  - 4. Disclosing confidential information acquired by or made available to them in the course of their employment with the City, or using such information for any purpose other than performance of their official duties.
- B. It is the employee's responsibility to disclose and report all potential conflict of interest situations to his/her Department Head or the City Manager.

## 2.08 **Employment of Relatives**

- A. At the time a person is applying for a position in City service, the person must identify any individual who is a close relative employed in the City.
- B. Close relatives will not be assigned within the same organizational unit, nor will they be supervised by the same supervisor or manager. An employee may not supervise (as an immediate supervisor or as a higher-level supervisor) any close relative.
- C. If at any time a situation exists where close relatives are employed within the same organizational unit or are supervised by the same supervisor or manager, the City Manager may transfer one of the individuals to a similar position in a different organizational unit in the City. If no similar position exists in the City and a problem arises, one of the employees may be terminated.
- D. "Close relative" is defined as mother, father, stepmother, stepfather, father-in-law, mother-in-law, husband, wife, child, stepchild, brother, sister, brother-in-law, and sister-in-law. The "organizational unit" will be determined by the City Manager.

2.6

## 2.09 **Political Activity**

- A. City employees shall not engage in political activity of any kind during working hours. Prohibited activity shall include, but is not limited to, soliciting money, influence, service, or any other valuable

thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office, while on the job during working hours. No person shall attempt to coerce, command, or require a person holding, or applying for, any position, office, or employment with the City to influence or give money, service, or other valuable thing to aid, promote, or defeat any political committee, or to aid, promote, or defeat the nomination or election of any person to public office.

- B. The rights of City employees to register and vote as they choose shall not be infringed. City employees may express their opinions on all political subjects without recourse against them.
- C. Subject to the foregoing, any City employee may seek appointment or election to any public position, office, or employment for which qualified.

#### 2.10 **Smoking**

- A. Smoking shall not be permitted in any workplace, meeting room, classroom, auditorium, restroom or elevator of any City facility.
- B. An employee who resides on City-owned property is excepted from provisions of this policy for off-duty circumstances that would be considered appropriate or legal if his/her residence were on private property.

#### 2.11 **Contracting for Special Services**

The City Manager shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The City Council may contract with any qualified person or public or private agency for the performance of all or any of the following responsibilities and duties imposed by this manual:

- A. The preparation of personnel rules and subsequent revisions and amendments thereof.
- B. The preparation of a position classification and compensation plan, and subsequent revisions and amendments thereof.
- C. The preparation, conduct and grading of competitive tests.
- D. The conduct of employee training programs.
- E. Special and technical services of any advisory or informational character on matters relating to personnel administration.

2.7

#### 2.12 **Executive Management and Confidential Personnel**

- A. The Executive Management and Confidential Personnel are key positions in the City service which are essential to an effective employer-employee relations program whose participation in the labor relations process and personal interest in the outcome of labor disputes over working conditions may

compromise the performance of their duties and responsibilities. The Executive Management and Confidential Personnel are also intended to facilitate management responsiveness to the direction of the City Manager, create a system of accountability to the City Manager and provide a reasonable degree of security for management and confidential personnel.

**B. Executive Management Personnel Defined:**

- |                       |                                    |
|-----------------------|------------------------------------|
| A. City Manager       | H. Finance Director                |
| B. City Attorney      | I. Recreation Director             |
| C. Police Chief       | J. Engineering Department Director |
| D. Fire Chief         | K. Building Director               |
| E. Personnel Director | L. City Engineer                   |
| F. Planning Director  | M. Airport Manager                 |
| G. Police Captain     | N. Community Services Director     |
|                       | O. Redevelopment Program Manager   |

**C. Confidential Personnel Defined:**

- |  |                        |
|--|------------------------|
| A. Executive Secretary to City Manager | C. Accountant          |
| B. Deputy City Clerk                   | D. Personnel Assistant |

**D. Appointment**

The appointing authority for the City Manager and the City Attorney shall be the City Council. A majority vote of the City Council concurring with the selection of the City Manager and City Attorney shall constitute confirmation of the appointment. The appointing authority for all other personnel defined as Executive Management and Confidential Personnel shall be the City Manager. All Department Head appointments shall be subject to the advice and consent of the City Council and after reasonable consideration of the appointee's qualifications.

**E. Benefits and Working Conditions**

Unless specifically excluded, Executive Management and Confidential Personnel shall be subject to and benefit from all provisions of this Resolution.

**F. Management/Administrative Leave**

Each employee appointed to career status as Executive Management or Confidential Personnel shall be eligible for ten (10) days (not to exceed 80 hours) management/administrative leave with pay each year. Leave will be granted in accordance with conditions set forth in an Administrative Memorandum to be issued by the City Manager. Said leave shall not be cumulative and shall not be converted into monetary compensation.

2.8

**G. Designation of Confidential**

The City Manager reserves the right to classify designated positions as confidential for the reasons of holding specific executive and/or administrative information in trust, which in his judgment, are material to the labor relations program of the City in which they are participants at some significant level. Confidential Personnel shall not belong to a recognized employee organization except as a member of a unit consisting solely of confidential personnel.

### **Section 3 – Employment, Selection and Appointment**

#### **3.01 Applications for Employment**

##### **A. Filing Applications**

All applications shall be made upon official forms furnished by the City and filed in the Personnel Department on or before the final filing date specified in the job announcement. All applications and

examination papers are confidential records of the City and under no circumstances will they be returned to the applicants or displayed publicly. A separate and complete application for each recruitment must be filed unless specified otherwise in the job announcement.

**B. Acceptance of Applications**

Applications for employment with the City shall not be accepted until a recruitment for a specific position(s) sought has been announced. Applications for temporary and/or seasonal appointments may be filed as determined by the Personnel Officer or in accordance with the provisions of these rules.

**C. Verification of Information**

The City may require applicants to provide certified copies of affidavits relating to receipt of any diploma, license, or any other accreditation or certification required to meet the requirements.

**D. Disqualification of Applicants**

The City may refuse to examine an applicant or may, after examination, disqualify such applicant or remove the applicant's name from an Employment List, or refuse to certify an applicant's name on an Employment List if any one of the following conditions exists:

1. The applicant is found to lack any of the preliminary requirements announced for the examination for the class of position;
2. The applicant has made a false statement of material fact in the application;
3. The applicant has directly or indirectly obtained information regarding examinations to which, as an applicant, the individual was not entitled;
4. The applicant has not submitted the application correctly or within the prescribed time limits;
5. The applicant has been dismissed from City employment.

**3.02 Recruitment Process**

**A. Open or Promotional Recruitments**

1. Prior to the distribution of any recruiting announcement, the Personnel Officer shall determine whether the recruitment is to be administered on an open-competitive basis or on a promotional basis.

3.1

2. Where an open-competitive recruitment is to be utilized, applications may be accepted from any qualified individual, subject to limitations which may be imposed on the number of applications based upon the known labor market for the individual class of employment.
3. Promotional recruitments shall be open only to qualified, career City employees. Applications may be accepted from qualified employees on probation subject to the provisions of the probationary requirements.



4. In making a determination concerning the field of applicants, the Personnel Officer and the appropriate Department Head shall consider such relevant factors as: the complexity of the work performed by the classification; the known labor market for such personnel; the utilization or under-utilization of minorities and women in any job category; and the availability within City service of a sufficient number of qualified applicants. Wherever feasible and consistent with the best interests of the City, promotional opportunities shall be provided to career employees in City service.

**B. Recruitment Announcements**

1. All recruitments for classifications in career positions in the City shall be publicized by distributing announcements of the examination to all sources as deemed necessary by the Personnel Officer to attract a sufficient number of qualified applicants.
2. Promotional recruitment announcements will be posted for a minimum of five (5) working days in all departments and at a central location in the Personnel Department until the final filing date specified in the announcement.
3. The Personnel Officer may extend the filing period for any recruitment based upon consideration such as the quantity and quality of applications received.

**C. Continuous Recruitments**

The Personnel Officer may conduct open-competitive recruitments for designated classes on a continuous basis. Conducting recruitments on a continuous basis would permit the acceptance, testing and placement of qualified applicants on open employment lists as they become available. This process may be instituted on an interim or on-going basis.

**3.03 Examination Process**

**A. Selection Techniques**

1. The Personnel Officer shall establish a list of eligible applicants through the examination process. The Personnel Officer shall adopt selection techniques which are impartial, culturally fair and related to the primary tasks of the job classification. The examination may include, but not be limited to, one or more of the following:
  - a. A written test measuring the candidate's aptitude and/or job knowledge.
  - b. An application evaluation of each candidate's applicable training and experience directly related to the job.
  - 3.2
  - c. A performance test whereby candidates demonstrate the degree of job knowledge and ability possessed.
  - d. A physical fitness test whereby candidates demonstrate their physical capacity to perform tasks directly related to the job.
  - e. A personal interview designed to evaluate the candidate's personal characteristics, background and job knowledge.

- f. Such other selection techniques which, in the judgment of the Personnel Officer, are necessary to evaluate the candidate's capacity to perform the job tasks.
2. All components of an examination which require evaluative judgments regarding technical subjects shall be administered using as a rater at least one competent authority in the area being tested.

**B. Pre-Appointment Screening**

The Personnel Officer may utilize other selection techniques to evaluate a candidate's fitness to perform job duties. These may include, but not be limited to, a medical examination, psychological evaluation, polygraph examination, background investigation, special police investigation, reference checks and verification of licenses, registrations, and diplomas. These selection techniques will be conducted after the applicant has successfully completed the examination and certification steps and has been offered employment subject to satisfactorily completing the pre-appointment screening.

**C. Conducting Examinations**

1. It shall be the responsibility of the Personnel Officer to assure that the examination process is conducted in an objective, timely and efficient manner.
2. The Personnel Officer may engage in cooperative examination programs with other public jurisdictions.

**D. Qualification Standards**

1. All candidates must achieve a qualifying or passing score in each successive component of the selection process.
2. The City may, at its discretion, invite only those candidates who achieve the highest scores to the next stage of the selection process.
3. The City may establish any passing score or job related qualifications standard to be met by a candidate for employment consideration.

**E. Notification of Examination Results**

All candidates shall be advised of their satisfactory completion or failure of the exam process. Upon completion of the examination process, each candidate successfully completing all phases shall be placed on the appropriate employment list.

3.3

**F. Review of Written Examinations**

1. Any candidate who has failed an examination shall have the opportunity to inspect his/her own examination answers within five (5) working days after the notices of examination results have been mailed or otherwise directly provided to the candidates. The Personnel Officer shall respond promptly on any question raised by a candidate alleging an error in scoring or in the content of the questions. Should the Personnel Officer determine that any such claim is justified, the scores applying to that examination, or portions of an examination, shall be

recomputed and candidates notified if affected by the recomputation.

2. All examination materials shall remain confidential and no copying of questions or answers from any paper made available for inspection shall be permitted. Any candidate violating this provision is subject to disqualification from the examination, disbarment from future examinations and, on promotional examination, to disciplinary action. Decisions regarding disqualification and disbarment shall reside with the Personnel Officer. Decisions regarding disciplinary action shall reside with the appropriate Department Head or the City Manager.

**G. Retention of Documents**

Applications, recruitment and examination documents shall be retained in accordance with applicable State and Federal regulations.

**3.04 Employment Lists**

**A. Employment Lists Established**

Candidates who successfully complete all components of the examination shall be placed on the appropriate employment list. The names of candidates who qualified in the examination shall be arranged in order of final scores, from the highest to the lowest, qualifying score. Placement on any open or promotional list does not imply any right to employment. Preparation and maintenance of employment lists shall be the responsibility of the Personnel Officer.

**B. Duration of Lists**

1. All open-competitive and promotional lists shall remain in effect for six (6) months unless exhausted or abolished within that period as provided below. The Personnel Officer may extend any such list for additional periods, but in no event shall an employment list remain in effect for more than two (2) years. The effective date of a list shall be that date on which it is approved by the Personnel Officer.
2. The Personnel Officer may abolish any promotional list which has three (3) or fewer candidates or may abolish any open-competitive list which has seven (7) or fewer candidates.

**C. Removal From Lists**

The Personnel Officer may remove the names of candidates from promotional and open-competitive employment lists:

3.4

1. Upon written request of the candidate.
2. Upon a career appointment to a regular position in the class for which the list was established.
3. Upon failure of the candidate to respond for an employment interview, after reasonable attempts to contact the candidate have been made.
4. Upon the candidate having been refused an appointment after certification and employment interview.

5. Upon the candidate having refused an employment interview or appointment.
6. Upon resignation, or discharge from City service from promotional employment lists.
7. On any of the grounds set forth in Section 3.01 D of these Rules.
8. For failure of the candidate to continue to meet any of the employment standards established for the class; or for failure to successfully pass any of the pre-appointment phases of the selection process, after the list is constituted.

**D. Notification of Removal and Right to Appeal**

1. Any person whose name is removed from an Employment List pursuant to items 3, 4, 5, 6, 7, and 8 above, shall be notified by mail of the action taken and reasons therefore.
2. Any person whose name is removed from an Employment List pursuant to this section, shall have the right to appeal within five (5) days after receiving notice of such removal. Appeals shall be in writing and addressed to the Personnel Officer and shall state briefly the basis upon which the appeal is made. The decision of the Personnel Officer with respect to any appeal under this section, whether favorable or unfavorable to the applicant, shall be final.

**3.05 Certification and Appointment**

**A. Filling Vacancies**

1. The Department Head shall notify the Personnel Officer of an anticipated vacancy in an established career position, except Executive Management and Confidential positions. The Personnel Officer and Department Head shall determine the means to be used to fill the vacancy.

Executive Management and Confidential positions will be filled under separate procedures, as determined by the City Manager, subject to approval by the City Council.

2. With the approval of the Personnel Officer, the vacancy may be filled through a transfer or voluntary demotion of an employee. If appointment is not made in this manner, the vacancy shall be filled by appointment from an existing employment list in the following order:

- a. Re-employment List. A list established as a result of a reduction in force.
- b. Promotional List. A list of qualified employees in City service.

3.5

- c. Reinstatement List. A list of applicants which were previously in City service.
  - d. Open-competitive List. A list of qualified applicants outside City service.
3. If there are less than three (3) candidates on the applicable promotional list and/or less than seven (7) candidates on the applicable open-competitive list, the Personnel Officer may:
    - a. Authorize appointment from among the available candidates.
    - b. Cancel the existing employment list and declare an alternate list as appropriate in

accordance with Section 3.05 D.

- c. Cancel the existing employment list and order a new examination. The Personnel Officer may also authorize a temporary appointment for the interim period as provided in Section 3.05 C.
4. Where no employment list exists, the Personnel Officer may declare an alternate list as appropriate in accordance with Section 3.05 D, or authorize a temporary appointment for the interim period as provided in Section 3.05 C.

#### **B. Certification of Candidates**

1. When a vacancy is to be filled from either a promotional or an open-competitive list, the Personnel Officer shall provide the Department Head with a list containing an appropriate number of candidates. The number of candidates certified shall depend upon the type of recruitment and number of vacancies. The names of the top three (3) candidates from a promotional list or the top seven (7) candidates from an open-competitive list will be certified for a single vacancy and, where there is more than one vacancy, one additional name for each vacancy in excess of one.
2. Following interview and recommendation by the Department Head, the City Manager or his designated representative may appoint from among those candidates certified and interviewed. Appointments shall not be retroactive.

#### **C. Types of Appointments**

1. **Career Appointments.** Career appointments will be made to established career positions anticipated to be of an indefinite duration – either full-time or part-time. Career appointments must be made from an employment list.
2. **Temporary Appointments.** Temporary appointments may be made in an emergency, to prevent undue delay or interference with the delivery of necessary services, or when a short term increase in workload requires additional employees, provided budgeted funds are available. Temporary appointments may be made from existing appropriate employment lists or from among qualified applicants. “Qualified applicants” for this purpose shall mean individuals who meet the minimum qualifications for the classification as defined in the class specification.

- a. Successive temporary appointments to the same position or of the same person shall not be made.

3.6

- b. Temporary employees may not work more than 1040 hours in a fiscal year.
- c. The City Manager may grant an extension to a temporary appointment, based on special circumstances as determined by the Personnel Officer and the Department Head. Temporary appointments shall not exceed 2080 hours.
- d. Temporary employees shall not be covered by these rules and shall not receive any benefits other than those mandated by law. Where a temporary appointment is extended beyond 1040 hours, the City will make available to temporary employees retirement, health insurance and life insurance benefits. In no event shall a period of temporary appointment constitute satisfactory completion of any part of a probationary period for any appointment

in a career position in City service.

e. Temporary employees shall not gain a property interest in their jobs.

3. **Seasonal Appointments.** Seasonal appointments may be made where additional employees are needed during a particular season, provided budgeted funds are available. Seasonal appointments may be made from employment lists established specifically for the position or from among qualified persons.

a. Successive seasonal appointments to the same position shall not be made unless a vacancy has been announced and reasonable opportunity is given to other qualified persons to apply.

b. Seasonal appointments shall not exceed nine months.

c. Seasonal employees shall not be covered by these rules and shall not receive any benefits other than those mandated by law. In no event shall a period of seasonal appointment constitute satisfactory completion of any part of a probationary period for any appointment in a career position in City service.

d. Seasonal employees shall not gain a property interest in their jobs.

4. **Identification of Employees by Type of Appointment.** Employees appointed to City service shall be identified by their type of appointment. Therefore, an individual receiving a career appointment is identified as a career employee and an individual receiving a temporary appointment is identified as a temporary employee, etc.

**D. Use of an Alternate Employment List**

In the absence of an existing employment list for a classification in which a vacancy exists, the Personnel Officer may authorize certifications from an active list for another classification having similar duties and employment standards. Appointments made in this manner shall be the equivalent in all respects to having appointed from a list for the classification in which the vacancy occurs.

3.7

**E. Employee Benefits**

1. Career employees working full time shall be entitled to participate in City provided employee benefits, retirement and insurance programs in accordance with the terms and conditions of each respective benefit plan. Career appointments that are less than full-time shall be entitled to participate in City provided employee benefits on a prorated basis.

2. Career employees hired on the first working day of the pay period start accruing benefits as of that day. Career employees hired after the first working day of the pay period start accruing benefits as of the first day of the following pay period.

3. Temporary and Seasonal appointments, except Temporary appointments in excess of 1040 hours, shall not be entitled to participate in any City provided employee benefits other than those

mandated by law.

**F. Minimum Employment Age**

All persons who are selected for career employment by the City must be at least eighteen (18) years of age. All persons who are selected for temporary and/or seasonal employment by the City must be at least fifteen (15) years of age. Applicants may be asked to provide proof of age at any time. Persons employed under the age of eighteen (18) must provide a valid minor work permit and may not be assigned to "hazardous" duties.

**G. Legal Authority to Work.**

All offers of employment and continued employment are conditioned on furnishing satisfactory evidence of identity and legal authority to work in the United States. Each applicant must attest to his/her legal authority to work and identity in accordance with applicable federal statute. All offers for employment will be contingent on receiving this verification, which must be completed as soon as possible after an offer of employment is made and in no event more than three (3) business days after an individual reports to work.

**H. Employment Medical Examinations.**

1. **Pre-employment Medical Examination.** Every offer of employment is contingent upon successful completion of a medical examination by the prospective employee. Each prospective employee shall be required to complete a pre-employment health questionnaire and, as determined by the City, take a pre-employment medical examination after receiving an offer of employment and before beginning his/her first day of duty. The medical examination shall be conducted by a physician authorized or approved by the City at its expense. An offer of employment is contingent upon successful completion of the health questionnaire and/or medical examination by the prospective employee.
2. **Re-employment Medical Examination.** Employees who are rehired following separation from City service (including re-employment following lay-off) shall be required to complete a pre-employment health questionnaire and, as determined by the City, take a pre-employment medical examination before returning to City service. The medical examination shall be conducted by a physician authorized or approved by the City at its expense.

3.8

**I. Residence Requirements**

Residence within the City limits or within a reasonable distance from the City, or as provided in the appropriate M.O.U., may be required for emergency personnel as determined by the Personnel Officer, depending on the nature of the position.

#### **Section 4 -Transfers and Assignments**

##### **4.01 Employee Transfers**

- A. Any employee in a career position who has successfully completed a probationary period may request a transfer to another vacant position in the same or similar classification within the department or in a different department without being subject to a new probationary period. An employee desiring to be transferred should make his/her request in writing to the Personnel Officer. As vacancies occur in other departments, to which the employee would be eligible for transfer, his/her name will be submitted to the Department Head for consideration. An employee transfer request shall remain active for a period of one (1) year.
- B. The transfer of an employee from one classification to another without a significant change in level



may be made when the employee meets the minimum qualifications for the new classification; if it is in the best interest of the City; if further training and development of an employee in another classification would be beneficial to future staffing potential of the City; and if it meets the personal need of the employee as consistent with the other requirements of this rule.

#### 4.02 **Reassignments Between Departments**

- A. The City Manager or designee may authorize the transfer of an employee from one position in a department to another position of the same or comparable classification in another department.
- B. Transfers from one department to another department under different Department Heads shall be done with the consent of both Department Heads, unless such a transfer is ordered by the City Manager for purposes of economy or efficiency.
- C. Any person transferred to a different position shall possess the minimum qualifications for the position.

#### 4.03 **Reassignment Within Department**

The Department Head may reassign an employee to another position in the same classification in the same department at any time.

### 4.1

## **Section 5 - Probationary Period**

#### 5.01 **Purpose**

- A. The probationary period is an integral part of the selection and screening process for career appointments. During this period, Department Heads will observe the new employee's work, train and aid the employee in adjustment to his/her new position, and recommend rejection of any new employee whose work performance fails to meet required standards.
- B. Probationary employees shall not gain any form of tenure or property interest in their positions and may be released from employment or returned to a former classification during the probationary period without cause.

#### 5.02 **Length of Probation**

- A. All career employees shall serve an initial probationary period upon appointment and shall serve a promotional probationary period upon promotion. All such periods of employment shall be considered to be probationary status. The probationary period shall not include any time served in a voluntary, temporary or seasonal assignment or any time on a leave of absence, either with or without pay, of two (2) weeks or more.
- B. All initial and promotional appointments, except as provided below, shall be subject to a probationary period of six (6) full months.
- C. The initial and promotional appointments of employees in the classifications listed below shall be subject to a probationary period of twelve (12) full months.

Accounting Technician	Junior Engineer
Animal Control Supervisor	Parks Maintenance Supervisor
Assistant Engineer	Police Detective
Associate Engineer	Police Officer
Associate Planner	Police Sergeant
Building Inspector	Recreation Supervisor
Engineering Technician	Senior Building Inspector
Equipment Supervisor	Senior Planner
Fire Captain	Streets and Sanitation Supervisor
Fire Engineer	Traffic Engineer
Firefighter	Water Maintenance Supervisor
Housing Program Officer	

- D. The City Manager may establish probationary periods of longer term by class, within a department or City-wide after satisfying the meet and confer requirements where applicable. Such longer termed probationary periods shall be based on the need to adequately assess an employee's on the job performance following the completion of an orientation and/or training.

### 5.03 **Extension of Probation**

The probationary period of an individual employee may be extended for a reasonable period not to exceed six (6) months by the City Manager upon recommendation of the Department Head. Approval of such

5.1

extension by the City Manager shall be in writing with notification to the employee involved prior to the end of the probationary period. Such an extension shall not be subject to further review nor shall it be subject to appeal.

### 5.04 **Rejection During Probation**

During the initial probationary period, an employee may be rejected at any time by the Department Head without cause and without the right of appeal. The Department Head shall notify the City Manager in writing of the recommendation to reject an employee during probation. Upon approval, the Department Head shall provide prompt notification to the employee involved.

### 5.05 **Rejection Following Promotion**

An employee rejected during the probationary period following a promotional appointment shall be

reinstated to a position in the former classification from which the employee was promoted. Such reinstatement to former class shall not be subject to appeal. If the cause for not passing probation, however, was sufficient grounds for termination the employee shall be subject to termination without reinstatement to the lower position. Such termination shall be subject to the City discipline procedures.

**5.06 Promotion During Probation**

While serving a probationary period an employee may be promoted to a position in a higher class. If an employee is promoted during a probationary period, the employee shall serve a new complete probationary period for the new class beginning with the date of appointment to the new class.

**5.07 Leave During Probation.**

In the event an probationary employee takes an approved leave of absence two weeks or more during his/her probationary period, the probationary period shall be extended for an equivalent period of time.

**5.08 Reclassification and Probation**

An employee who is reclassified shall not be required to serve a probationary period if the employee has completed probation in their current classification. An employee who is reclassified while serving a probationary period shall be treated in accordance with section 5.06 above.

**5.09 Reduction in Force and Probation**

An employee who either displaces another employee or voluntarily demotes to a vacant position as a result of a reduction in force shall serve the established probationary period for the position to which the employee is assigned unless the employee has previously held the position within the last two (2) years.

**5.10 Completion of Probationary Period**

Not later than 30 calendar days prior to the completion of the probationary period the employee's supervisor shall complete, and the Department Head shall review and approve a performance evaluation to ascertain whether the probationary employee shall become a career employee of the City.

5.2

**Section 6 - Position Classification Plan Section**

**6.01 Purpose**

The purpose of the position classification plan is to provide a complete and continuous inventory of all positions in City service and to provide descriptions and specifications for each classification. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the career service.

**6.02 Composition of Classification Plan**

- A. The classification plan shall consist of a grouping in classes of positions which are approximately equal in difficulty and responsibility for the same general qualifications and which can be equally compensated within the same range of pay for similar working conditions. Classes shall be arranged

in series whenever possible.

- B. The classification plan shall be reflected in written class specifications for each class.

#### 6.03 **Content of Class Specifications**

Each class specification shall include the title, description of the duties and responsibilities of work; a statement of the qualifications required for persons within the classes and a statement of the minimum qualification required for filling vacancies.

#### 6.04 **Interpretation and Specification**

The definitions of the class specifications are descriptive and not restrictive. They are not intended to indicate the kinds of positions that are allocated to several classes, as determined by duties and responsibilities and are not to be construed as to declaring what the duties or responsibilities of any position may be or as limiting or modifying the power of any Department Head to assign, direct and control the work of employees under his supervision. The use of a particular expression or illustration as to duties shall not be held to exclude contents not mentioned that are of similar kind or quality, nor shall any specific omission necessarily mean that such factor is not included. However, changes in organization and work methods which might affect the duties of employees should be reported to the Personnel Officer.

#### 6.05 **Use of Class Title**

Class title shall be the official title of every position allocated to the class for the purpose of personnel actions and shall be used on all payrolls, budget estimates, official records, and reports relating to the position. Any other working title desired and authorized to be used by the Department Head may be used as a designation of any position for purposes of internal administration or in contacts with the public.

#### 6.06 **Maintenance of the Plan**

The Personnel Officer shall be responsible for the maintenance of the classification plan. The Personnel Officer may allocate positions to the appropriate class and may make revisions in the classification plan which shall consist of additions, abolishments, consolidations, or amendments to existing class specifications. The Personnel Officer shall be responsible for conducting classification studies or having studies conducted by qualified persons or companies outside City service of proposed new or existing positions in the City service when:

6.1

- A. Notified by the City Manager that new positions are being authorized.
- B. Notified by a Department Head that the duties and responsibilities of a position or group of positions may be improperly classified or have undergone significant change.
- C. Periodically as a need arises to review a certain position or group of positions in the City service.

6.2

**Section 7 - Compensation and Salary Administration****7.01 Compensation Plan**

A Compensation Plan shall be established by resolution of the City Council. This plan shall establish the salary range and salary steps or rates of pay for each classification in the City. The City Council shall administer the compensation plan for the City Attorney and City Manager. The Personnel Officer shall administer the compensation plan for all other City employees. If a salary review indicates that there should be adjustments in the compensation plan, the Personnel Officer shall make appropriate recommendations to the City Council.

**7.02 Anniversary Dates**

For the purpose of salary administration and performance evaluations, each employee shall have an Anniversary Date which shall be determined as follows:

- A. For a new employee, the first Anniversary Date shall occur the first day of the following pay period, unless the date is the first day of the pay period, one (1) year from the first day the employee was employed in a career position.
- B. For an employee who is promoted, the first Anniversary Date shall occur the first day of the following pay period, unless the date is the first day of the pay period, one (1) year from the first day on which the employee promoted.
- C. For an employee who is demoted, the first Anniversary Date shall be the first day of the following pay period, unless the date is the first day of the pay period, one (1) year from the first day on which the demotion is effective.

#### **7.03 Anniversary Dates Adjusted**

Any person on leave without pay for thirty (30) consecutive calendar days, or two (2) consecutive pay periods, or more, shall have their anniversary date adjusted to reflect the time absent without pay. Upon recommendation of a Department Head and with the approval of the City Manger this provision may be waived.

#### **7.04 Anniversary Date Upon Transfer or Reclassification**

Anniversary Dates of employees who are transferred to a job classification designated by the same salary range or whose job classification is reclassified to a new classification with the same salary range shall not be changed. Anniversary Dates of employees whose job classification is reclassified from one salary range to a higher salary range shall receive a new Anniversary Date in accordance with section 7.02 B., above.

#### **7.05 Anniversary Date Postponed**

For each employee whose step advancement is postponed by their Department Head, the Anniversary Date shall be changed to the date to which the advancement is postponed.

7.1

#### **7.06 Salary Upon Initial Appointment**

Upon initial appointment with the City, an employee shall be placed in the first step of the salary range. However, when it is difficult to obtain qualified personnel at the first step or when the education, training or previous experience justify a higher step, appointment at a higher step within the range may be authorized by the City Manager.

#### **7.07 Step Advancements**

- A. Step advancements are merit increases and are not automatic. An employee must perform the duties of the position in a manner satisfactory to the Department Head to receive a step advancement.
- B. Eligibility for such step advances shall be as follows:

1. Second Step - Upon satisfactory completion of six (6) months (thirteen [13] pay periods) of service in the first step.
  2. Third and Subsequent Steps - Upon satisfactory completion of twelve (12) months (twenty-six [26] pay periods) of service in each lower step.
- C. Step advancements shall be made on the Anniversary Date. No advancement shall be made without the written recommendation by the Department Head and approval of the City Manager or his designated representative.

#### 7.08 **Salary Upon Probation**

Upon promotion, an employee shall be placed in the first salary step of the range for the new classification. If placement in the first salary step provides for a salary increase that is less than five (5) percent, the employee shall be placed in a salary step in the range for the new classification that provides for approximately a five (5) percent increase. In no event shall an employee receive an increase or be placed on a salary step which is beyond the maximum of the new range. Upon recommendation by the Department Head and approved by the City Manager an increase above five (5) percent may be granted.

#### 7.09 **Salary Upon Demotion**

The salary of an employee who is demoted to a position of a job classification with a lower salary range than the job classification from which the employee was demoted shall be reduced to the salary step in the range for the new classification recommended by the Department Head and approved by the City Manager.

#### 7.10 **Salary Upon Transfer or Reassignment**

In the case of a transfer or reassignment of an employee from one position to another in the same salary range, the employee shall continue in the same salary step. In the case of a transfer of an employee from one position to another on a class with a lower salary range, the employee may be placed in any step in the range where the employee does not receive a pay increase.

7.2

#### 7.11 **Salary Upon Reclassification**

- A. Any employee in a position which is reclassified with a different salary range shall be compensated at the step in the new salary range that does not result in a loss of pay. Upon recommendation by the Department Head, and approval by the City Manager, an employee in a position which is reclassified may be placed in a step of the new salary range for the new class which provides for a minimum increase of approximately five (5) percent. In no event shall an employee receive an increase or be placed on a salary step which is beyond the maximum of the new range.
- B. The salary of an employee whose position is reclassified to a classification with a lower salary range and whose salary is above the maximum of the new salary range shall be frozen at the salary of the old classification for a period not to exceed twenty-four (24) months until the salary range of the new classification is equal to or exceeds the employee's salary. This shall be referred to as "Y-rate". At the discretion of the City Manager a Y-rate salary reduction may be deferred.

## 7.12 **Special Salary Adjustments**

A Department Head may recommend a step increase for any employee in his/her department for outstanding service or any other special circumstances. Recommendations shall be made to the City Manager. Such step increases will be effective upon the approval of the City Manager.

7.3

## **Section 8 - General Working Conditions**

### 8.01 **Hours of Work**

#### A. **Workweek**

The standard work week is a seven consecutive day period from midnight Sunday to midnight the following Sunday. The City Manager may designate any other seven consecutive days as an alternate work week when circumstances within all or any portion of the City operations make such designation desirable.

#### B. **Work Schedule**

1. The work schedule is the normal hours of work for an employee during a work week. The standard work schedule for full-time employees shall be eight (8) hours per day on five



consecutive days from 8:00 a.m. to 5:00 p.m., excluding a one hour meal period. The work schedule for fire suppression personnel shall be based on fifty-six (56) hours per week with twenty-four (24) hour shifts.

2. The City Manager may designate other alternate work schedules for full-time employees consisting of forty hours per week which shall provide for a meal period of at least one-half hour during each work shift of at least six (6) hours. Such meal period shall not be included as work time. The City Manager may also designate exceptional work schedules of more than forty hours or less than forty hours during which time a full time employee is required to be available for duty. Such exceptional schedule shall not consist of more than forty hours of actual work in a work week.

## 8.02 Overtime

- A. It is the general policy of the City that overtime work is to be discouraged. Overtime shall not be worked except in emergency situations or when the overtime is determined by the Department Head, with concurrence of the City Manager, as necessary to meet essential operating needs of the City.
- B. Overtime for eligible employees, except firefighters assigned to an average 56 hour work period, is that time worked which exceeds eight (8) hours per day (or the assigned scheduled shift if more than eight (8) hours per day) and forty (40) hours in a pay status in a work week. Pay status includes time worked; paid leaves such as holidays, vacation, sick leave, and jury duty; and compensatory time off.
- C. All overtime hours, as defined above, shall be compensated at one and one-half times the regular rate; or, for those employees covered by an M.O.U., as provided for in the appropriate M.O.U. Such pay shall be upon approval of the City Manager.
- D. Employees in classifications designated as Executive Management and Confidential by the City and certain employees in the Mid-Management Unit shall not be eligible for overtime compensation.

### 8.1

## 8.03 Call-Back

- A. An employee who is called back to work after he/she has worked the scheduled shift and has departed from the place of employment shall be compensated with overtime for the time worked, either in cash or compensating time off, at the rate of time and one-half with a minimum of two (2) hours at such rate. Such call back shall include early call in to the next regularly scheduled shift if notification does not occur prior to departure.
- B. This provision shall not apply to any employee assigned as City property caretaker and occupying on-site City housing in whole or in part as their place of employment.

## 8.04 Stand-By

- A. Standby duty shall be defined as that circumstance which requires an employee assigned by the City to:
  1. Be ready to respond immediately to a call for service;

2. Be readily available at all hours by telephone or other agreed- upon communication equipment; and
  3. Refrain from activities which might impair his/her assigned duties upon call.
- B. With the approval of the City Manager, a Department Head may assign an employee or employees to standby duty.
- C. Standby duty is normally assigned in one week increments. Standby duty will be distributed among those employees deemed qualified and competent by the City to perform the duty.
- D. Unless otherwise provided for in a resolution setting forth benefits and working conditions for employees or in a Memorandum of Understanding with a formally recognized employee organization, employees who are assigned to standby duty shall receive \$75.00 per week of standby duty.

#### 8.05 **Meal Periods**

Each full-time employee, except fire suppression personnel, shall be entitled to an uninterrupted, unpaid meal period of a minimum of thirty (30) minutes and a maximum of sixty (60) minutes at or about the mid-point of their work day. The length of the meal period and the time the meal period is taken, shall be determined by the City. Employees are entirely relieved of responsibilities and restrictions during their meal period, unless they have been notified, in writing, to work an on-duty meal period which will be treated as paid time. Meal periods for fire suppression personnel shall be in accordance with department practice.

#### 8.06 **Rest Periods**

Rest periods not exceeding fifteen minutes, one during each work period of three hours or more (e.g., once in the morning and once in the afternoon) shall be granted employees. These rest periods shall not be taken at the beginning or end of the work period, and time not used for rest periods shall not be accumulated and used at a later date. Rest periods are considered to be time worked.

8.2

#### 8.07 **Pay Days and Final Paycheck**

##### A. **Regular Pay Days**

Employees are paid biweekly, every other Wednesday. If a pay day falls on a holiday, paychecks will be available on the preceding non-holiday work day. Checks are distributed either by the employee's immediate supervisor or by the Finance Department. If the employee is absent when the paycheck is distributed, the employee may claim the paycheck from the Finance Department when the employee returns. An employee may establish alternate distribution arrangements by notifying the Finance Department in writing. Such alternate distribution arrangements shall be subject to the approval of the Personnel Officer.

##### B. **Resignation and Final Paycheck.**

1. **Resignation in Good Standing** A employee may resign by presenting his/her resignation in writing to the Department Head. To resign in good standing, an employee must give the Department Head at least two (2) weeks prior notice, unless because of extenuating circumstances the Department Head agrees to accept a shorter period of notice. Failure of the

employee to comply with this provision may be cause for denying future employment with the City. Resignations shall be promptly forwarded to the Personnel Officer by the Department Head.

2. **Voluntary Resignation** An employee absent from duty without authorization for two (2) or more consecutive working days without an explanation satisfactory to the Department Head shall be deemed to have voluntarily resigned without notice and to have terminated employment with the City.
3. **Exit Interviews** The Personnel Officer may conduct an exit interview for career employees who resign to verify reasons for resignation. Department Heads are requested to assist terminating personnel to keep exit interview appointments. Copies of the information obtained during the exit interview shall be furnished to the appropriate Department Head.
4. **Employee Property Clearance** Employees will certify that all City property in their custody has been returned to the City prior to receiving their final check from the Finance Department. The value of all unaccounted for City property may be withheld from the employee's final check or collected by other appropriate action.
5. **Final Paycheck** Employees, including employees who are released during their initial probationary period or dismissed for disciplinary reasons, will receive their final paycheck on the regular pay day for the pay period in which they resign or are released/dismissed. The final paycheck will include payment for all earned salary due and not previously paid, and accrued but unused leave balances which are subject to pay-off.

### 8.3

## 8.08 Holidays

### A. Observed Holidays

1. The number of authorized holidays per year shall be established by the City Council. City employees shall receive time off on authorized holidays. City offices shall be closed on authorized holidays. Authorized holidays shall be as follows:

New Year's Day	Labor Day	
Martin Luther King's Birthday		Veteran's Day
Washington's Birthday		Thanksgiving Day
Memorial Day		Friday after Thanksgiving
Independence Day		Christmas Day

2. City offices shall be closed and City employees shall receive time off on every additional day that is appointed by the President or Governor as a public day of mourning, thanksgiving, or holiday when ratified by the City Council.

3. If one of the holidays listed above falls on a Sunday, then it shall be observed on the following Monday. If one of the holidays listed above falls on a Saturday, then it shall be observed on the previous Friday.
4. In addition to the above holidays, each employee (excluding Police, Fire and Mid-Management) shall be entitled to two days off as floating holidays, said day to be given at each employees request during each fiscal year, subject to operational needs. Floating holidays must be taken off in the fiscal year in which granted. No payment for unused floating holidays shall be made and a floating holiday not taken shall not be paid off at termination.

**B. Holiday Pay**

1. Career employees are eligible to receive pay for each observed holiday. To be eligible to receive holiday pay a career employee must be in pay status the scheduled work day before the holiday and scheduled the work day following the holiday. Employees who resign in good standing on the work day following a holiday must work that last scheduled day to receive holiday pay.
2. Career employees working full-time shall receive eight (8) hours pay for each holiday. Those employed part-time (not less than 50% time) shall receive holiday pay proportional to their hours in a pay status excluding holiday hours, during the pay period in which the holiday falls.

**C. Holidays Worked**

In addition to holiday pay, as provided for above, career employees who are required to work on a holiday shall be granted either equivalent time off with pay during the same work week where the holiday occurs or pay at the employee's regular rate of pay. Those other employees who are required to work on a holiday shall be granted either equivalent time off without pay or pay at the employees established rate. Prior approval of the City Manager is required if cash payment for holidays worked is to be made.

8.4

**D. Equivalent Holiday Compensation**

Unless otherwise provided for in an applicable M.O.U., those employees who receive equivalent compensation for holidays in lieu of holidays off, shall receive payment as follows:

1. **Newly Hired Employees:** The holiday equivalent compensation received shall be proportionate to the non-overtime hours of service during the employee's first calendar or fiscal year, as applicable. Such pay shall be to the nearest full holiday.
2. **Terminating Employees:** The holiday equivalent compensation received shall be proportionate to the non-overtime hours of service during the employee's last calendar or fiscal year, as applicable. Such pay shall be to the nearest full holiday or quarter, as is the practice for newly hired employees.

**8.09 Employee Performance Evaluations**

**A. Purpose and Objectives**

The purpose of employee performance evaluations is to evaluate individual performance, to motivate employees and inform them of their job performance with the view of improving performance and improving public services.

**B. Job Standards and Performance Criteria**

1. Job standards are established by management and supervision and are derived from Class specifications for a particular position. From these standards, an employee shall know what his/her job requires and through supervisory instruction, how he/she is expected to perform said requirements.
2. Performance criteria shall be established by supervision as a measure of the quality and quantity of work an employee produces. Each employee is then rated against the standard performance requirements of the job, without regard to current salary range step. From such performance criteria, an employee should through periodic reviews, know how well he/she has performed in relation to what is expected.
3. Current ratings shall be based on performance and/or behavior which occurred during the rating period. Previous ratings may be referenced to support trends or patterns of performance but prior performance shall not be used solely as the basis of arriving at current ratings.

**C. The Performance Review**

1. The performance review shall be conducted by the supervisor directly responsible for a career employee's performance:
    - a. At the end of the month 1/3 of the way through an established probationary period.
    - b. At the end of the month 2/3 of the way through an established probationary period.
    - c. Annually on the anniversary date for all other career employees.
- 8.5
- d. Whenever commendation or a serious problem warrants a special performance review.
  2. Supervisors shall conduct private interviews with each employee in an unhurried informal atmosphere. Supervisors shall indicate on the review form the overall rating given the employee. The employee must sign the performance review form, indicating that it was discussed with him/her, not that the employee agrees with or endorses the evaluation. The employee may add written comments to the performance review.

**8.10 Training**

**A. General Policy**

The City shall encourage and promote training opportunities for all City employees to insure that services they render to the City may be made more effective. The Personnel Officer shall assist Department Heads in meeting the training needs of the personnel of their departments; and in cooperation with Department Heads, shall encourage the development of departmental and interdepartmental training programs designed to meet personnel needs and to prepare employees for promotion to positions of greater responsibility.

**B. Time of Training Periods**

Training periods may be conducted either during or after regular working hours or both. Attendance by employees at training sessions conducted after regular working hours, however, shall be voluntary unless arrangements for such training includes the granting of an equal amount of compensatory time off within the work week of the training or cash payment. Training sessions conducted during regular working hours will be arranged so as to minimize interference with work schedules.

**C. Types of Training**

For the purpose of administering this provision, the recognized general categories of training are:

1. **In-Service Training:** This category includes those courses initiated by the City that are aimed primarily at improving the specific abilities of employees in either performing or broadening their general comprehension of municipal operations.
2. **Specialized Individual Training:** This category includes special training courses which are usually initiated by some other group but which have special interest directly relating to the work performed by one or more City employees. This category includes seminars and training sessions held by professional organizations and specialized professional short courses.
3. **Academic Training:** This category includes courses offered by academic institutions for credit. The subject matter of the courses shall be related directly to the functions of the City and contribute to the performance of that employee in his/her present City position.

8.6

**D. Tuition Aid**

"Tuition aid" is defined as full or partial payment or reimbursement of registration fees and the minimum requirement of tests for specialized individual academic training which is related to the employee's current job or which prepares an employee for a promotional opportunity within City service. Texts purchased for training by the City will become the City's property upon completion of the training. The individual will have the option of purchasing the texts from the City.

1. **Tuition Aid for Specialized Individual Training** shall be made to the employee only upon evidence of completion of the training. In those instances where it is desirable because of the nature of the training to advance tuition aid, a Department Heads may request payment of tuition aid prior to the training.
2. **Tuition Aid for Academic Training** shall be made to the employee only upon evidence of satisfactory completion of the training. Satisfactory completion will be considered a grade of C or better, or an equivalent grade.

**E. Procedure for Obtaining Tuition Aid**

1. Employees who desire tuition aid for specialized individual training or academic training shall submit their requests to their Department Heads. Requests will be reviewed by the Department Heads and forwarded with recommendation to the Personnel Officer for authorization. Requests for aid and costs shall be processed within the administrative section of the department's budget. Prior authorization of the Personnel Officer must be obtained before the training starts in order for the employee to qualify for tuition aid. Employees will be required to pay the tuition costs themselves, prior to the course, but will be reimbursed if the course is authorized and successfully completed as provided for herein. When the training is completed, evidence of satisfactory completion of the training must be submitted to the Personnel Officer for the purpose of obtaining reimbursement.
2. An employee being subsidized by another agency, either governmental or private, shall receive tuition aid only to the extent not reimbursed by such other agency.

#### 8.11 **Medical Examination**

- A. The City may require a medical examination of an employee at any time for any reasonable cause. The medical examination shall be conducted by a physician selected by the City at its sole expense. The scope of the medical examination shall be determined by the attending physician, with the approval of the City, to assess if the employee is medically fit to effectively perform his/her job and can effectively perform without endangering the health and safety of the employee, other City employees or the public.
- B. The results of all medical examinations will be kept confidential and maintained separately from the employee personnel file.
- C. An employee who is disqualified from employment or who otherwise fails the examination may submit an independent medical opinion which the employee obtains at his/her own expense.

8.7

#### 8.12 **Limited/Modified Work Duty**

Where an employee is on a leave of absence due to an injury or illness, an employee, upon recommendation of the Department Head and approval of the City Manager, may return to work or continue work in a limited or modified duty assignment. Approval for such limited/modified duty shall be based upon the department's ability to provide work consistent with the employee's medical limitations and the length of time of the limitations. Employees must be willing to accept any limited/modified duty assignment within the employee's classification and may be subject to the reasonable availability of limited/modified duty assignments. The City reserves the right to seek professional consultation in determining work limitations.

#### 8.13 **Uniforms and Special Clothing**

- A. The City, when required by State law, shall furnish special safety or protective clothing and equipment to City employees for their use. The City shall provide and maintain uniforms or work clothing for designated employees in the Community Services Department.
- B. Members of the Police and Fire Department shall be granted cash allowances for the purchase and maintenance of uniforms and other equipment required in the performance of their City duties, as provided in the appropriate M.O.U., which shall become the property of the employee upon 1 year

of service.

#### 8.14 Mileage Allowance and Use of Privately-Owned Vehicles

- A. **General Policy:** It is the policy of the City to ensure that all employees requiring transportation for the satisfactory completion of their assigned duties will either (1) have a City vehicle available for their use as required by the nature of their work or (2) be reimbursed for the use of their own private vehicle when such use is authorized.
- B. **Authorization for Use of Privately-Owned Vehicles:** Use of privately owned vehicles in connection with official City business during normal work hours may be authorized prior to such use by the City Manager.
- C. **Mileage Allowance:** Employees who use their own vehicle for City business shall be reimbursed at the prevailing IRS standard business mileage rate in effect at the time the mileage occurred.
- D. **Administrative Regulations:** Administrative regulations covering conditions for use, financial responsibility, procedures for requesting travel authorization and reimbursement procedures shall be established by the City Manager.

#### 8.15 Personnel Files and Records

- A. An employment history for each City employee will be maintained by the City. The information in the personnel file is permanent property of the City and shall be maintained in a confidential manner. The personnel file shall include dates of service, positions held, salary history, and other information as may be deemed appropriate and/or required by law.
- B. The official repository of personnel file and record for each City employee shall be maintained by the Personnel Department. Department files may be established for the purpose of having readily available pertinent employee records.

8.8

- C. The personnel file of an employee will be open for inspection by the employee or his/her authorized representative at his/her request during business hours by appointment. The employee or his/her authorized representative, as designated in writing on a case-by-case basis, shall have access to review his/her personnel file in the presence of the Personnel Officer or designee. The employee will have access to all contents of the file except those materials which are a part of the employment/selection process (including letters of reference) and any records relating to investigations of possible criminal offenses. A copy of the material in the personnel file to which the employee has access will be provided to the employee upon request.
- D. The employee's personnel file shall be accessible to the employee's departmental management and City Manager as deemed appropriate by the Personnel Officer.



8.9

**Section 9 - Leave of Absence Provisions****9.01 Vacation Leave****A. Purpose**

Vacations are provided for all career employees and are designed to give the employee an opportunity for rest and relaxation. It is City policy that each employee will take a vacation of reasonable length at least once each year.

**B. Accrual of Vacation Leave**

1. Vacation accrual shall be based on total career service with the City during the current continuous period of employment. The accrual time for vacation is in accordance with the following schedule:

<u>Length of City Service</u>	<b>Accrual for Full-time Employment</b>		
	<b><u>Per</u></b> <b><u>Year</u></b>	<b><u>Per</u></b> <b><u>Month</u></b>	<b><u>Per</u></b> <b><u>Pay Period</u></b>
1st through 5th			

year of service	10 days	6.67 hrs	3.08 hrs
6th through 10th year of service	15 days	10.0 hrs	4.62 hrs
11th and greater years of service	20 days	13.33 hrs	6.15 hrs

2. Vacation accrues to an eligible employee only in those pay periods when he/she is in pay status one-half time or more. An employee in a pay status on a full-time basis shall accrue full vacation during the pay period. An employee in a pay status on a part-time basis (no less than 50% time) shall accrue vacation proportional to the hours on pay status during the pay period. Such accrual shall be rounded to the nearest quarter hour.
3. An employee who is a new hire, re-employed or reinstated shall receive no vacation credit for the pay period in which he/she is hired, re-employed or reinstated if the start date is after the first working day of the pay period.

**C. Maximum Accrual of Vacation Leave**

Employees shall not accumulate more than 30 working days (240 hours) of vacation time without the authorization of the City Manager. Accumulated vacation time of more than 30 days (240 hours) authorized by the City Manager must be used prior to the end of the calendar year or it will be lost.

**D. Use of Vacation Leave**

1. No use of vacation time shall be permitted during the first six (6) months of City service unless approved by the City Manager.

9.1

2. Vacation shall not include any official City holidays which occur during the scheduled vacation period.
3. Vacation usage may not exceed the accrued vacation balance as of the prior pay period.

**D. Scheduling of Vacation Leave**

1. Vacation leave shall be taken with the approval of the employee's Department Head.
2. Requests for vacation leave usage of more than two (2) weeks must be requested at least two (2) weeks prior to the desired vacation period.

**E. Workers' Compensation and Use of Vacation**

An employee may elect to use accrued vacation leave to supplement temporary disability payments after all accrued sick leave and accrued compensatory time has been exhausted.

**F. Advance Payment of Vacation Leave**

No advance cash payment of vacation leave is authorized except under exceptional circumstances, approved only by the City Manager.

**G. Vacation Leave and Termination**

An employee shall be paid for accumulated unused vacation leave upon termination of employment from City service at his/her current base hourly rate of pay. Vacation leave will not be granted immediately prior to termination of employment for the purpose of extending service to encompass paid holidays or completing a full month service for additional vacation leave accrual.

**9.02 Sick Leave**

**A. Purpose**

1. Sick leave is provided for all career employees and is designed for use during those periods when an employee is unable to work because of illness, injury or established appointments with health/medical/dental professionals, or as otherwise provided below.
2. In addition to the use of sick leave for purposes designated above, an employee may be granted use of up to a total of forty (40) hours of sick leave in a twelve month period for the purpose of caring for a husband, wife, child (including stepchild or foster child), or any other person living in the same household as the employee who may be ill or disabled.

**B. Accrual of Sick Leave**

1. Sick leave accrual is in accordance with the following schedule:

<b>Accrual for Full-time Employment</b>		
<b><u>Per Year</u></b>	<b><u>Per Month</u></b>	<b><u>Per Pay Period</u></b>
12 days	1 day	3.69 hours

9.2

2. Sick leave accrues to an eligible employee only in those pay periods when he/she is in pay status one-half time or more. An employee in a pay status on a full-time basis shall accrue full sick leave during the pay period. An employee in a pay status on a part-time basis (no less than 50% time) shall accrue sick leave proportional to the hours on pay status during the pay period. Such accrual shall be rounded to the nearest quarter hour.

3. There shall be no limit on the amount of sick leave an employee may accrue.

**C. Use of Sick Leave**

Use of sick leave shall be permitted upon employment. Sick leave usage may not exceed the accrued balance as of the prior pay period.

**D. Notice and Verification of Sick Leave Usage**

1. Sick leave is provided for a bona fide illness or injury and is subject to the approval of the Department Head. An employee unable to report for work due to illness, injury, appointment or family care is required to call his/her supervisor or Department Head and report the absence not later than the start of the work shift which will be missed.

2. Any sickness in excess of two (2) days may require the submission of a doctor's certificate at the discretion of the Department Head. In the event there is questionable use of sick leave, a Department Head may require a doctor's certificate for periods of absence of two (2) days or less.

**E. Workers' Compensation and Use of Sick Leave**

During periods when an employee is unable to work because of a job related injury or illness, and he/she is eligible for Workers' Compensation temporary disability benefits, the employee will receive his/her regular pay check until his/her accrued sick leave has been exhausted, as follows:

1. Workers' Compensation temporary disability payments payable to the employee, shall be endorsed to the City. The City will use the employee's accrued sick leave to supplement these payments, or to cover those normal workday periods not covered by the temporary disability payments, until the accrued sick leave is exhausted.
2. Upon exhaustion of the employee's sick leave, the employee will be placed on leave without pay unless he/she opts to supplement temporary disability payments with compensatory time or accrued vacation. If placed on leave without pay, the City will send the temporary disability payment directly to the employee for his/her use. This shall be the only payment to the employee.

**F. Advance Payment of Sick Leave**

1. No advance payment of sick leave shall be authorized until all accumulated vacation leave has been utilized. The Personnel Officer may allow the advancement of sick leave to those career employees who are ill or disabled and have exhausted their accumulation of sick leave. These advances are in effect loans, and must be repaid from future accumulations of sick leave or vacation leave, or in the event of termination of employment prior to the accumulation of sufficient leave credits, these will be repaid in cash.

9.3

2. A career employee, serving his/her initial probationary period, may not request an advancement of sick leave until he/she is in their 5th month of the initial probationary period. The request must be recommended for approval by the employee's Department Head.

**G. Sick Leave and Termination**

An employee shall neither receive compensation for accumulated sick leave upon termination nor be allowed use of accumulated sick leave following termination.

**9.03 Bereavement Leave**

- A.** Career employees are eligible for three (3) days bereavement upon the death of the following:

Husband	Brothers	Grandchildren	Uncles
Wife	Sisters	Mother-in-law	Aunts
Children	Grandparents	Father-in-law	Nieces
Father	Grandparents-in-law	Sisters-in-law	Nephews
Mother	Legal guardian	Brothers-in-law	

- B. The City shall allow up to five (5) days upon City Manager approval for employees who must travel out of state for bereavement leave. Such approval shall not be unreasonably denied.

#### 9.04 **Jury Duty and Subpoenaed Witnesses**

##### A. **Jury Duty**

1. An employee shall be granted leave with pay for actual time spent on mandatory jury service. Pay for the jury duty service shall not exceed the employee's regularly scheduled number of work hours. The employee shall deposit any fees paid by the court, exclusive of mileage, with the City
2. The employee shall report for work during the employee's regularly scheduled work shift any time that the employee is relieved from jury duty.

##### B. **Witness Duty**

1. An employee shall be granted time off to appear in court as a witness as required by law if the employee gives reasonable prior notice to the City of the required appearance. If the employee's presence as a witness is compelled by a properly issued subpoena, the employee shall receive such time off without loss of compensation to comply with the subpoena, unless the employee is a party to the proceeding, an adverse witness to the City, or an expert witness.
2. To receive paid time as provided above, the employee shall deposit with the City any witness fees actually received, except mileage.
3. An employee who serves as a witness within the line of duty, or on a case related to the employee's job, on a day that is a regularly scheduled day off, shall be paid at the employee's regular base rate of pay or at time and one-half, if the employee otherwise qualifies for overtime compensation, for all hours the employee actually is required to be in court.

9.4

#### 9.05 **Leave of Absence Without Pay**

- A. At the discretion of the City, leave of absence without pay may be granted to a career employee if extraordinary circumstances exist. An employee who is granted a leave of absence without pay must utilize all accrued vacation and other accrued compensatory time off prior to commencing the leave without pay. All requests for such leave shall be submitted in writing to the Department Head. Upon recommendation of the Department Head, leave without pay may be authorized by the Personnel Officer.
- B. If granted, the employee shall not accrue vacation, sick leave, holidays or any other benefits during the leave. Insurance benefits, such as but not limited to, health, dental, life and disability insurance for the employee and his dependents will not be maintained by the City during the leave. If leave without pay is approved, the employee may elect to pay the premiums and maintain the insurance during the leave. The premiums must be paid in advance to the City.
- C. Employees returning to work after a leave of absence may be required to obtain a written release from a physician verifying that they are able to return to work and safely perform their duties. Reasonable effort will be made to restore the employee to his/her former position or to a comparable position for which he/she is qualified provided the employee gives the City thirty (30) days advanced notice. Upon returning to work the employee will resume accrual of benefits in

effect before the leave provided he/she returns to work on or before the end of the authorized leave period. Failure to return to work on the date scheduled or to accept the position offered shall be deemed a resignation of employment.

#### 9.06 **Military Leave**

- A. Military leaves of absence will be authorized in accordance with state and federal law. For the purpose of this policy, recognized military service shall mean full-time service by a person in the armed services during a national emergency or state militia emergency. In order to be eligible, employees must submit written verification from the appropriate military authority.
- B. While in a non-pay status on military leave, the employee shall not accrue vacation, sick leave, holidays or any other benefits during the leave. Insurance benefits, such as, but not limited to, health, dental, life and disability insurance for the employee and his/her dependents will not be maintained by the City during the leave while in a non-pay status. The employee may elect to pay the premiums and maintain the insurance during the leave. The premiums must be paid in advance to the City.
- C. The City will reinstate employees returning from military leave to their same position or one of comparable seniority, status and pay if they:
  - 1. Have a certificate of satisfactory completion of service;
  - 2. Apply within 90 days after release from active duty or within such extended period, if any, as their rights are protected by law; and
  - 3. Are qualified or are, with reasonable effort, able to requalify to fill their former position.
- D. Exceptions to this policy shall be made whenever necessary to comply with applicable state and federal laws.

9.5

- E. An employee who has more than twelve months service with the City and who is on temporary military duty (TAD) ordered for the purposes of active military training, encampment, naval cruises, special exercises, or like activity shall be on leave with pay for the first thirty (30) days of such leave provided the temporary military duty does not exceed 180 calendar days including time spent going to and returning from the duty. Inactive duty, such as scheduled reserve drill periods, is not be considered as active military duty and does not qualify. Leave with pay shall not exceed thirty (30) calendar days in a fiscal year.

#### 9.07 **Medical Leave - Non-Occupational**

- A. Employees who are temporarily disabled and unable to work due to a personal illness, non-occupational injury, pregnancy, child birth, or related medical condition, will be granted a medical leave of absence.
- B. Medical leaves will be authorized on the basis of a physician's written statement that the employee is temporarily unable to work due to a medical disability.
- C. An employee who is granted a medical leave of absence must utilize all accrued sick leave during the initial period of the leave. Vacation, and any other accrued compensatory time off may be used,

at the discretion of the employee and with the approval of the City Manager, during the initial period of the leave. Any portion of a leave that occurs after all sick leave, vacation and compensatory time off have been exhausted shall be without pay.

- D. A medical leave of absence for pregnancy, child birth, or related medical condition shall not exceed a total of four (4) months. Paid and unpaid portions of a leave shall be added together for purposes of the four (4) month leave period. The total period of all absences related to pregnancy, child birth, or related medical condition, shall be considered part of the same leave when calculating available leave time.
- E. An employee who plans to take a medical leave must provide the City with reasonable notice of the date the leave will commence, the estimated duration of the leave, and the expected date of return to work. When an unplanned medical condition or emergency occurs that does not allow the employee to provide advance notification of the need for a medical leave, the employee must notify the City of the situation at the earliest possible time. The City may require periodic confirmation of the need for continued leave.
- F. Employees returning to work after a medical leave must have a written release from a physician verifying that they are able to return to work and safely perform their duties. Subject to any exceptions permitted by law, an employee shall be restored to his/her former position and will resume accrual of benefits in effect before the medical leave provided he/she returns to work on or before the end of the authorized leave period. If the period of leave is not established or if it differs from the originally agreed period, the employee's reinstatement date shall be not less than thirty (30) days after the City has received notice of the employee's availability to return to work.
- G. While on medical leave of absence, an employee shall not accrue vacation, sick leave or holidays. Insurance benefits, such as, but not limited to, health, dental, life and disability insurance for the employee and his/her dependents will not be maintained by the City during the leave while in a non-pay status. The employee may elect to pay the premiums and maintain the insurance during the leave. The premiums must be paid in advance to the City.

9.6

#### 9.08 Medical Leave - Work Related

- A. A leave of absence will be granted upon written notification to any regular employee who sustains a work-related disability. A leave of absence for a work-related disability will be extended to the employee for the duration of the work-related disability. Employees returning from a leave will be given credit for any portion of a probationary period completed prior to the commencement of the leave of absence. Benefits paid during a leave of absence for a work-related disability will be coordinated with workers' compensation benefits. Notification requirements for a medical leave of absence for occupational disabilities are the same as those for medical leaves for non-occupational disabilities. The City will retain employees on an extended leave of absence for work-related disabilities until one of the following situations occurs.
  - 1. The employee is released by a physician for full duty.
  - 2. The City receives medical evidence satisfactory to it that the employee will be permanently unable to return to work.
  - 3. The employee directly or indirectly informs the City (i.e., by accepting other employment, moving out of the state, etc.) that he /she does not intend to return to the City's employ.

- B. An employee who returns to work at the end of his/her leave of absence will be returned to his/her former position, if possible, or will be offered the first available opening in a comparable position for which he/she is qualified. The employee must provide a physician's statement that indicates that he/she is fit to return to the position designated for the employee.

#### 9.09 Family Care and Medical Leave

- A. The purpose of this policy is to implement the provisions of the California Family Rights Act of 1991, as amended, and the Family and Medical Leave Act of 1993. Where there are differences between the state and federal acts the more generous requirements of the two have been extended to City employees. If any provisions of this policy are inconsistent with the state and federal acts and their enabling regulations the acts and regulations shall supersede this policy.
- B. Employees with more than one (1) year of continuous service with the City, who have worked at least 1,250 hours during the previous year, may take up to twelve (12) workweeks of leave in a 12-month period because of:
1. The birth of a child or to care for a newborn of an employee;
  2. The placement of a child with an employee in connection with the adoption or foster care of a child;
  3. The employee is needed to care for a family member (child, spouse, or parent) with a serious health condition;
  4. The employee's own serious health condition makes the employee unable to do his/her job.

Entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.

9.7

- C. A leave granted under this provision will normally be leave without pay except that an employee must exhaust accrued sick leave, vacation or other accrued time off prior to leave without pay. At the request of an employee and with prior approval of the City Manager, an employee may retain and not use accrued sick leave in connection with a leave for the care of a newborn, adopted or foster care child or to care for a family member with a serious health condition.
- D. Leave may be used in one or more increments, but shall not exceed a total of twelve (12) workweeks of leave in a 12-month period measured backward from the date leave is taken. A leave for the care of a newborn, adopted or foster care child shall be taken on a continuous basis in increments of not less than two (2) weeks. An employee may request intermittent leave in one-day increments for the care of a seriously ill family member; or for the treatment of a serious health condition of the employee. A reduced leave schedule (i.e. a work schedule that reduces the number of hours per workweek or workday) may be established where medically necessary for an employee to care for a seriously ill family member; or for the treatment of a serious health condition of the employee.
- E. Unless the need for leave arises out of an unforeseen emergency, employees requesting leave will be expected to provide reasonable advance notice of the need for leave and, at a minimum, written notice of five (5) working days. Failure to provide advance notice may be cause for delaying the effective date of the leave to ensure adequate coverage of the position. The City shall require employees requesting family care leave for the care of a seriously ill family member, or medical



leave for the treatment of a serious health condition of the employee to provide medical certification of the illness.

- F. Where both a husband and wife are employed by the City and both are eligible for family leave the aggregate leave to which both are entitled is limited to twelve (12) workweeks of leave in a 12-month period if leave is for the birth or placement for adoption or foster care of the employees' child, or to care for a seriously ill parent.
- G. Employees on leave will be eligible to continue medical and dental insurance coverage and other group coverages as if the employee were in a regular pay status. The City will pay the premiums necessary to maintain coverage as if the employee remained in a paid status. If an employee elects to maintain insurance coverage while on family care leave and there is normally a payroll deduction, the employee may authorize a payroll deduction or pay the premiums in advance in accordance with the requirements necessary to maintain coverage. Failure to pay premiums which are the employee's responsibility may result in cancellation or loss of benefit coverage. For the period of family care leave in a paid status, if any, the employee will continue to accrue vacation, sick leave and holidays.
- H. Leave shall not constitute a break in service for seniority or any employee benefits. An employee on leave without pay for thirty (30) consecutive calendar days, or major fraction thereof, or more, shall have their anniversary date adjusted to reflect the time absent without pay. Employees on probation will have their probationary period extended by the length of time on leave.
- I. The employee shall cooperate with the City in scheduling his/her date to return to work, and, whenever possible, shall give the City at least thirty (30) days advanced notice of availability. Upon return from leave, the City shall restore the employee in his/her previous position or a comparable position provided the employee gives the City thirty (30) days advanced notice. Where the medical leave was for the treatment of a serious health condition of the employee the City shall require the employee to provide medical verification of fitness to return to duty.

9.8

- J. Employees are required to complete the following applicable forms in connection with leave under this policy:
  - 1. Request for Family Care or Medical Leave to be eligible for leave.
  - 2. Medical certification for the employee's own serious health condition or for the serious health condition of a family member.
  - 3. Authorization for payroll deductions of insurance benefit premiums not paid for by the City.
  - 4. Verification of fitness to return to duty.

#### 9.10 **Time Off to Vote**

Employees who are registered voters may request time off to vote at an election if the employee does not have sufficient time outside of his/her regular working hours to vote. The employee may, without loss of pay, take up to two (2) hours of time off to vote. The time off for voting shall be only at the beginning or the end of the regular work shift, whichever allows the most free time to vote and the least time off from work. The employee shall give his/her supervisor at least two (2) working days notice of the need for time off to vote.

9.9

**Section 10 - Reduction In Force Section****10.01 Authorization**

The City may reduce the work force because of lack of work or other legitimate reasons, including but not limited to, purposes of economy, reduction in funds available to the City, increases in operating costs without increase in funds available to the City, curtailment of positions due to reclassification or reorganization action. The City shall determine which class(es) will be subject to lay-off.

**10.02 Order of Lay-off**

- A. Lay-offs shall be by classification within a department. The order of lay-off of employees within a class or classes shall be as follows:
  - 1. Seasonal or Temporary employees.
  - 2. Part-time employees.
  - 3. Probationary employees (promotional probation excluded).

4. Career employees.

- B. Within each of the first three (3) categories, the order of lay-off shall be at the discretion of the City Manager. The order of lay-off of career employees shall be based on seniority (as defined below) with the employee(s) having the lowest seniority subject to lay-off first. Among employees with equal seniority, the order of lay-off shall be determined by the City Manager.

**10.03 Seniority Determination**

Seniority for the purpose of determining the order of lay-off, displacement and re-employment shall be determined as follows. Each employee shall receive one (1) point per each full month of service in the classification the employee is working at the time a layoff is being imposed. In addition, the employee shall receive one-half (1/2) point per each full month of service in any other classification in the same bargaining unit in which the employee has worked; and one-quarter (1/4) point per each full month of prior service in any non-bargaining unit classification. The total of such points shall determine each employee's seniority.

**10.04 Employee's Right to a Lower Classification**

- A. Employees subject to lay-off may displace an employee with less seniority in either:
1. A comparable classification, as determined by the City Manager, or;
  2. A lower classification within the department in which the employee previously held permanent status.

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- B. Employees subject to lay-off may voluntary demote to a vacant position in:
1. A comparable classification, as determined by the City Manager,
  2. A lower classification within the department in which the employee previously held permanent status, or;
  3. A lower classification provided the employee meets the minimum qualifications for the class and can, through a non-competitive examination, establish proof to the satisfaction of the City Manager that he/she is capable of performing the job.

**10.05 Re-employment Lists**

The names of career employees who have been laid off or have been demoted in lieu of lay-off shall be placed on a re-employment list. The re-employment list shall be by department and classification with employees listed in seniority order - the employee with the highest seniority or last to be laid-off appearing first on the list. Re-employment lists shall be used on a priority basis to fill any vacancies in career positions which occur in the appropriate department and classification. The names of employees laid off or demoted shall remain on the re-employment list for up to two (2) years from the date of lay-off or demotion.

**10.06 Notice of Re-employment**

- A. The employee subject to recall shall be sent written notice of re-employment by certified mail to the last known address of record on file with the City. The employee shall be given at least fourteen (14) calendar days notice to report to duty in his/her former classification, and requested to respond within three (3) calendar days as to his/her intentions.
- B. If the employee does not respond or report for duty at the time requested, the employee shall be considered to have resigned and their name will be removed from the re-employment list.
- C. Extensions of time limits may be granted by the Personnel Officer.

**10.07 Benefits Upon Re-employment**

Upon re-employment by the City, an employee shall be credited with service performed prior to their being laid off and will accrue vacation at the accrual rate applicable as if the employee had not been laid off. Sick leave balances, if any, will be reinstated at the time of re-employment. Employees, upon re-employment, will be eligible for insurance benefits as if they are a new hire unless they had maintained coverage or unless otherwise provided by the insurance carriers.

## 10.2

**Section 11 - Grievance Procedure Section****11.01 Grievance Defined**

A grievance is a dispute concerning the interpretation or application of a specific section of these rules which provide a specific benefit to the Grievant, that is not subject to the discretion of management.

- A. **Resolution Methods** There shall be two sequential methods to attempt resolution of grievances, informal and formal. Informal attempts to resolve a grievance must be made before proceeding to the formal process. The absence of an attempt at informal resolution is considered to be abandonment of a grievance.
- B. **Open Door Policy** As a matter of City policy, supervisors and Department Heads are expected to provide an open door and a receptive ear for the discussion and review of employee grievances. It is for the mutual benefit of all concerned to resolve the grievances as near as possible to the point of origin.

**11.02 Informal Grievance Process**

- A. The employee may bring a grievance to the attention of his/her immediate supervisor at the earliest possible date, but within a period of fifteen (15) working days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of such action. The employee shall inform his/her immediate supervisor that he/she wishes to discuss

an informal grievance. The supervisor shall discuss, or set a date and time for such discussion, at that time. The grievance does not have to be in writing at the informal stage. The supervisor and the employee shall discuss and attempt resolution of the issues at the informal level.

- B. If the issues are not resolved at the informal level, or the supervisor does not make himself/herself available for discussion during the informal process, the employee may, within the specified time limits, file a formal grievance.
- C. If the employee does not make himself/herself available for discussion during the informal process, the grievance shall be considered abandoned.

### 11.03 Formal Grievance Process

- A. The employee may file a formal grievance within thirty-five (35) working days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of such action, provided the following have taken place:
  - 1. The employee has taken his/her grievance to his/her supervisor for discussion as in Sub-Section .3, above.
  - 2. The issues have either been discussed without resolution or without resolution satisfactory to the employee; or the supervisor did not make himself/herself available for discussion.
- B. A formal grievance shall be in writing and shall state the name, classification and department of the grievant; the date and a description of the action that caused the grievance; the section of these rules or departmental rules that were violated; and the remedy sought. The formal grievance shall

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be signed by the employee. The formal grievance shall also include reference to the date that the informal grievance was taken to the grievant's supervisor, the date(s) of discussion with the supervisor, and a brief summary of the outcome of that discussion.

- C. **Step 1: Appeal to the Department Head:** Any informal grievance shall initially be submitted to the Department Head, with a copy to the Personnel Officer, within the time period specified above. The Department Head shall investigate the grievance and shall notify the employee and the Personnel Officer, in writing, of his decision within ten (10) working days of the receipt of the appeal.
- D. **Step 2: Appeal to the Personnel Officer:** If the decision of the Department Head is not satisfactory to the employee, the employee may appeal to the Personnel Officer. Such appeal must take place within five (5) working days of the Department Head's decision. The grievant's appeal shall be submitted in brief memo/letter form addressed to the Personnel Officer. It shall state the grievant's desire to appeal and what portions of the formal grievance are not resolved by the Department Head's decision. The Personnel Officer shall review the grievance and the Department Head's decision, and take any investigative/inquiry action as he/she may deem appropriate. The Personnel Officer shall notify the employee and the City Council, in writing, of his/her decision with fifteen (15) working days of the receipt of the appeal.
- E. **Step 3: Appeal to the Council:** If the decision of the Personnel Officer is not satisfactory to the employee, the employee may appeal to the City Council. Such appeal must take place within ten (10) working days of the Personnel Officer's decision. The grievant's appeal shall be submitted in

brief memo/letter form and addressed to the Mayor. The memo/letter shall state the grievant's desire to appeal the decision and what portions of the formal grievance are not resolved by the Personnel Officer's decision. The City Council will schedule the appeal for hearing within thirty (30) working days of the appeal to the Mayor. The decision of the City Council shall be final.

#### 11.04 **Grievances by Employee Organizations**

Grievances submitted by recognized employee organizations shall initially be submitted to the Department Head. Subsequent steps will be followed as outlined in Sub-Section .4, Steps 2 and 3, above.

#### 11.05 **Representation**

The employee or the employee organization shall have the right to representation at any level of the grievance process.

### 11.2

## **Section 12 - Disciplinary Procedure Section**

#### 12.01 **General**

- A. The expected standard for employees of the City shall be to render the best possible service to the public, to reflect credit upon the City service, and to serve the public interest. The tenure of every employee shall be conditioned on good behavior and satisfactory performance of duties. Disciplinary actions are intended to be corrective and progressive in nature with the objective of obtaining compliance with rules, orders, procedures, standards of conduct and expected job performance.
- B. The procedures set forth in this section shall not apply to probationary employees who are rejected during probation, or to any employee serving in a seasonal or temporary appointment. These procedures shall not apply to a reduction in force, or a reduction in pay which is part of a reclassification action or reorganization approved by the City Council.
- C. The City Manager may take disciplinary action based upon a Department Head recommendation or initiate such action based upon his/her own authority. The City Manager may delegate the responsibility to take disciplinary action to Departments Head(s). As used in this section, "disciplining authority" shall mean either a Department Head or the City Manager, whoever initiates the disciplinary action; "working day" shall mean any day of the month which the City offices are officially open for business.
- D. The procedures set forth in this section shall not preclude an employee from entering into a written

agreement with the City to settle a pending disciplinary matter, and further shall not preclude an employee from waiving any of the notice provisions herein provided for, as part of that written settlement agreement.

## 12.02 **Grounds for Discipline**

An employee may be reprimanded, suspended, denied a merit increase, demoted or dismissed for any of the following reasons:

- A. Furnishing false information to secure employment.
- B. Incompetence, which shall mean that the employee lacks adequate ability, knowledge, motivation, or fitness to satisfactorily perform the duties which are within the scope of employment.
- C. Inefficiency in performance of work which results in performance lower than that which is typically expected of the position.
- D. Neglect of duty.
- E. Insubordination, which shall mean refusal or failure to follow a direct, lawful order which the employee is capable of following.
- F. Nonobservance of work hours.
- G. Excessive absenteeism, tardiness, or absence without authorized leave.

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- H. Violation of city personnel rules and regulations, administrative policies and procedures, department rules and regulations, safety rules, resolutions, ordinances or codes.
- I. Damage to or waste of public property, equipment or supplies, or unauthorized possession or use of public property, supplies or equipment.
- J. Any conduct related to employment which impairs, disrupts or causes discredit to the employee's department or the city, including but not limited to conduct which is or would be cause for discipline under any other provisions of this section.
- K. Willful failure or refusal to properly perform official duty.
- L. Gross negligence in the discharge of official duty.
- M. Dishonesty involving employment.
- N. Any act of moral turpitude which adversely reflects on the employee's ability or fitness to perform his/her duties.
- O. Soliciting or taking for personnel use a fee, gift or other valuable thing in the course of the employee's work, or in connection with the contributing party's expectation or hope of receiving favorable or better treatment than that afforded other persons.

- P. Disclosure of confidential information to an unauthorized source.
- Q. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment by the city.
- R. Falsification of time sheets or any official city records.
- S. Misuse of sick leave.
- T. Consuming, possessing, or being under the influence of an alcoholic beverage, while on duty.
- U. Unless legally authorized, using, consuming, injecting, possessing, being under the influence of, selling or offering for sale, while on duty, any drug which can or does impair, the employee's work performance, or any controlled substance as the latter term is defined in the California Health and Safety code.
- V. Discourteous or disrespectful treatment of the public, other employees, or city officials.
- W. Violation of city harassment policy.
- X. Persistent failure or refusal to take, complete, or follow through with appropriate and reasonable treatment or corrective measures designed to remedy an employee's condition, such as alcohol or substance abuse, when said condition results in conduct which constitutes grounds for discipline under these rules.

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- Y. Engaging in outside employment in violation of city policies or rules.
- Z. Engaging in non-City business during work hours, excluding employee free time such as lunch and breaks.

### 12.03 Types of Disciplinary Action

As used in this section, "disciplinary action" shall mean any of the following and may be taken singly or in combination:

- A. **Counseling or Oral Warning.** A counseling or oral warning will not be placed in an employee's personnel file except as part of a regular or special performance evaluation report of the employee on which the employee is given an opportunity to respond. A counseling or oral warning or a performance evaluation report is not subject to the appeal process outlined below.
- B. **Written Reprimand.** A written reprimand shall be provided to an employee prior to being placed in the employee's personnel file. Such reprimands shall not be subject to the appeal process outlined below, but the employee shall have the right of rebuttal by providing a written statement which will be included in the personnel file along with the written reprimand.
- C. **Imposition of special employment conditions.** Such action shall be subject to the appeal process outlined below.



- D. **Suspension** with or without pay. Fringe benefits such as vacation and sick leave shall not accrue during a period of suspension without pay. However, health, dental and life insurance shall remain in effect during a period of suspension without pay. Such action shall be subject to the appeal process outlined below.
- E. **Reduction in pay level** not to exceed one (1) year. Such action shall be subject to the appeal process outlined below.
- F. **Demotion.** Such action shall be subject to the appeal process outlined below.
- G. **Dismissal or Discharge.** Such action shall be subject to the appeal process outlined below.

#### 12.04 **Notice of Intended Disciplinary Action**

- A. In cases of proposed disciplinary action, except a counseling, oral warning, or written reprimand, the proposed disciplinary action shall be served on the employee personally or by mail. The written notice of intended disciplinary action which shall include:
    - 1. The reasons for the disciplinary action, those facts alleged to be the basis for the intended action and copies of any documents or materials upon which the disciplinary action is based;
    - 2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
    - 3. The proposed effective date of the intended disciplinary action; and
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- 4. The right of the employee to respond to the proposed disciplinary action either in writing or orally, at the option of the employee. The employee shall be advised that he/she has five (5) working days within which to file a written response or request, in writing, an informal predisciplinary conference before the disciplining authority or his/her designee.
- B. A copy of the notice of intended disciplinary action shall be placed in the employee's personnel file.

#### 12.05 **Predisciplinary Conference**

Where an employee has requested an opportunity to respond orally, the disciplining authority or his/her designee shall cause an informal predisciplinary conference to be held to review the statement of charges and to provide the opportunity for the employee or his/her representative to answer the charges. The disciplining authority or his/her designee shall allow the parties to present any relevant evidence tending to prove or disprove the facts upon which the action is based or upon the nature and severity of the proposed disciplinary action. Failure of the employee to appear at the predisciplinary conference, if requested, shall forfeit all the employee's appeal rights.

#### 12.06 **Notice of Discipline or Rejection of Discipline**

- A. If the employee does not respond or upon conclusion of the predisciplinary conference, the disciplining authority or his/her designee shall, by written notice to the employee and the supervisor, affirm, reduce or abandon the proposed disciplinary action.

- B. If the decision is to affirm or reduce the proposed disciplinary action, such action shall be served on the employee personally or by mail. The written notice of disciplinary action which shall include:
  - 1. The reasons for the disciplinary action, those facts alleged to be the basis for the disciplinary action and copies of any documents or materials upon which the disciplinary action is based;
  - 2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
  - 3. The effective date of the disciplinary action; and
  - 4. The right of the employee to appeal the disciplinary action. The employee shall be advised that he/she has five (5) working days within which to file a written appeal of the disciplinary action.
- C. A copy of the notice of disciplinary action shall be placed in the employee's personnel file.
- D. If the notice is to abandon all action, the notice of intended disciplinary action shall be removed from all personnel files.

#### 12.07 **Appeal of Disciplinary Action**

- A. An employee who has been discharged, demoted, reduced in salary, been made subject to special employment conditions, or suspended without pay has the right to appeal the disciplinary action by  
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filing a written notice of appeal within five (5) days from the date of the notice of discipline. The appeal must state specifically the reason or reasons upon which it is based. Failure to file within the time allowed constitutes abandonment of appeal rights.
- B. An employee who has been disciplined by a Department Head has the right to appeal such action to the City Manager for final review and shall file his/her written notice of appeal with the City Manager within five (5) days from the date of the notice of discipline. An employee who has been disciplined by the City Manager has the right to appeal such action to the City Council for final review and shall file his/her written notice of appeal with the City Clerk within five (5) days from the date of the notice of discipline.
- C. The City Manager or City Clerk shall not accept any appeal unless the appellant has first sought relief through the established procedures including the Department Head concerned and/or the City Manager.
- D. The City Clerk shall, within ten (10) working days after receipt of the appeal, inform each member of the City Council, the City Manager and other persons named or affected by the appeal or the filing of the appeal.

#### 12.08 **Final and Binding Review**

- A. Where the disciplinary action has been appealed to the City Manager, the City Manager shall conduct or cause to have conducted a hearing on the appeal of an employee who has been subject to disciplinary action. The City Manager may appoint an impartial Hearing Officer to conduct a hearing on behalf of the City Manager.

- B. Where the disciplinary action has been appealed to the City Council, the City Manager, or his/her designee, shall appoint an impartial Hearing Officer to conduct a hearing on behalf of the City Council on the appeal of an employee who has been subject to disciplinary action.
- C. The Hearing Officer shall assume responsibility for scheduling and conducting the hearing in accordance with the provisions of this section. The Hearing Officer shall conduct the hearing and prepare a report which will include findings of fact and recommendation(s). The City Manager or City Council shall be bound by the findings of fact but may reserve final authority on the recommendation(s) of the Hearing Officer.
- D. Where the disciplinary action has been appealed to the City Manager, the City Manager shall, within thirty (30) working days after the conclusion of the hearing or upon receipt of the Hearing Officer's findings and recommendation(s), certify his/her findings and recommendation in writing to the employee and the Department Head. The decision of the City Manager shall be final and binding.
- E. Where the disciplinary action has been appealed to the City Council, the City Council shall, within thirty (30) working days upon receipt of the Hearing Officer's findings and recommendation(s), certify its findings and recommendation in writing to the employee and the City Manager. Any Council member may submit a minority or supplemental finding or recommendation. The decision of the City Council shall be final and binding.

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- F. If the decision is to affirm the disciplinary action, the decision shall be placed in the employee's personnel file. If the decision is to modify or reverse the disciplinary action, such action shall be implemented. If modified, the decision shall be placed in the employee's personnel file. If reversed, the notice of the intended disciplinary action and the notice of disciplinary action shall be removed from all personnel files.

**12.09 Appeal Hearing Procedure**

- A. Upon notice of the timely receipt of an appeal, the City Manager, or his/her designee, shall schedule an appeal hearing. The City Manager, or his/her designee, shall provide the employee written notice of the date, time and place of the hearing no less than ten (10) working days in advance of the scheduled hearing date. Any timelines contained in this section may be extended upon mutual agreement of the City Manager and the employee or by the City Manager for good cause.
- B. The hearing before the City Manager or the Hearing Officer shall be conducted in conformity with Sections 11512 through 1515, inclusive, of the Government Code. The City Manager or the Hearing Officer shall be deemed to be the administrative law judge in the proceedings.
- C. The hearing shall be closed to the public unless the employee, prior to the commencement of the hearing, requests in writing that it be open to the public. The hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code which reads:
  - 1. Oral evidence shall be taken only on oath or affirmation;
  - 2. Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first

called him to testify; and to rebut the evidence against him. If respondent does not testify on his own behalf, he may be called and examined as if under cross-examination;

3. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

- D. Either by deposition or at the hearing, the employee may be examined and may examine or cause any person to be examined under Section 776 of the Evidence Code. The employee shall be allowed to appear personally at the hearing, and he/she shall have the right to legal counsel or lay representation of his/her choice at all times throughout the proceeding, and be allowed to produce such competent evidence in his/her own defense and in rebuttal of the charges as he/her or his/her representative may wish to offer.

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- E. The hearing shall be recorded by a stenographic reporter. If any transcript is ordered by the employee or the City, the party ordering the transcript shall bear the cost of the transcription. If both the employee and the City order transcriptions, the cost of the transcription, along with the cost of the reporter, shall be borne equally by the City and the employee.
- F. The City Manager or the Hearing Officer shall have the power to subpoena and require the attendance of witnesses, and the production of books, papers and other evidence pertinent to the hearing, and to administer oaths to witnesses. In arriving at a decision or recommendation, the City Manager or the Hearing Officer may consider any prior disciplinary actions taken against the employee, or any prior proceedings under this section.
- G. Failure of the employee to appear at the hearing shall be deemed a withdrawal of his/her appeal and the action of the City Manager or Department head shall be final, unless, in the opinion of the City Manager, the circumstances were beyond the employee's control.

### 12.10 **Serving of Notices**

Written notices shall be served either by direct personal service on the person affected, or by mail. Mailed notices to the City Manager or his/her designee, a Department Head, an appellant and/or his/her designee, or the City Council shall be effective upon recorded deposit with the United States Postal Service.

### 12.11 **Summary Suspension**

Prior to any disciplinary proceedings under this section, the City Manager may summarily place any City employee on an immediate suspended status with or without pay. Such suspensions shall be made only in cases where the employee's continued active duty status might, in the sole opinion of the City Manager, constitute a hazard to the employee or others, tend to bring the City service into discredit, or prolong acts or omissions of improper employee conduct. If the disciplinary action or suspension is not subsequently

ordered and/or affirmed, the employee shall be reinstated in status and restored all pay and fringe benefits lost during such summary suspension.

#### 12.12 **Right to Representation**

An employee subject to a meeting, an investigation that may result in disciplinary action, a predisciplinary conference or hearing has the right, upon request, to be represented by an employee representative or an attorney retained by the employee at the employee's expense. Any employee, other than those defined as management, mid-management and confidential employees shall be permitted to represent another City employee or group of City employees.

#### 12.13 **Records Purged**

An employee's personnel file shall be purged of all documents relating to ordered disciplinary actions, except dismissal, after three (3) years from the end of such action upon the written request of the employee or former employee against whom the action was taken.